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STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

VERIZON WIRELESS	)	
	)	
Petition for Arbitration Pursuant to	)	
Section 252(b) of the Telecommunications	)	**Docket 01-0007**
Act of 1996 to Establish an Interconnection	)	
Agreement with Illinois Bell Telephone	)	
Company d/b/a Ameritech Illinois	)	

AMERITECH ILLINOIS' POST-HEARING REPLY BRIEF

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Illinois Bell Telephone Company ("Ameritech Illinois"), respectfully submits its post-hearing reply brief.

Issue 1.A: Direct Trunking

At the outset, a reminder is in order: Ameritech Illinois' proposed section 5.4.4 addresses two related, but different, situations. One is where a Verizon Wireless switch is sending the threshold volume of traffic through Ameritech Illinois' tandem switch to a particular Ameritech Illinois end office. The other is where a Verizon Wireless switch is sending the threshold volume of traffic through Ameritech Illinois' tandem switch not to an Ameritech Illinois end office, but to a third party carrier (*i.e.*, where Ameritech Illinois is providing a transiting function). Most of the discussion of Issue 1.A has focused on the former situation, but for the moment, Ameritech Illinois wishes to focus special attention on the latter situation. The reason: The latter situation indisputably does *not* implicate the right to interconnect at any technically feasible point that is the cornerstone of Verizon Wireless' position on Issue 1.A. Assuming, in other words, that Verizon Wireless has a point of interconnection at an Ameritech Illinois' tandem switch, and that the conditions set forth in section 5.4.4 are met *with respect to transit traffic*, so that Verizon Wireless has to take traffic off the tandem and establish a direct connection *with the third party carrier*, there will be no change whatsoever – not even arguably – in the location of Verizon Wireless' point of interconnection with Ameritech Illinois. Verizon Wireless' point of interconnection with Ameritech Illinois network will remain exactly where it is – at the tandem switch – and Verizon Wireless will not be establishing any new or different point of interconnection with Ameritech Illinois' network; rather, it will be establishing a point of interconnection with the third party carrier's network. Thus, none of Verizon Wireless'

arguments about its rights with respect to points of interconnection, under paragraph 209 of the *First Report and Order* or otherwise, has any bearing on Issue 1.A insofar as it concerns traffic flowing from Verizon Wireless to third party carriers. Accordingly, no matter what conclusion the Commission reaches with respect to requiring Verizon Wireless to establish direct trunking to Ameritech Illinois' end offices under the circumstances contemplated by proposed section 5.4.4, it is altogether clear that section 5.4.4 should be adopted to the extent it addresses direct connections between Verizon Wireless and third party carriers.

That said, the Commission should also approve section 5.4.4 as it relates to the establishment of direct trunking to Ameritech Illinois end offices. Staff agrees with Ameritech Illinois that Verizon Wireless' absolutist approach to its right to interconnect at technically feasible points should be rejected. As Staff puts it, "[T]here must be a 'balancing' determination between Ameritech's ability to protect its network and placing unreasonable inhibiting competive requirements on Verizon." (Staff Br. at 6-7.) Staff goes on to endorse section 5.4.4, but with the proviso that "the proposed language for 5.4.4 (see Ameritech Cross Ex. 1) should reflect that Verizon should not be required to establish a direct trunk group to an end office where there are currently facilities from Verizon to the tandem and from the tandem to the end office." (*Id.* at 9-10.) The concept behind Staff's proviso is acceptable to Ameritech Illinois – but Ameritech Illinois has some concern that the proviso (as worded in Staff's brief) could be misunderstood, because the word "tandem" might be taken to mean either "tandem building" (which is what Ameritech Illinois believes Staff means) or "tandem switch" (which Ameritech believes is not what Staff means). Ameritech Illinois is reasonably confident of Staff's intention, because the sentence in Staff's brief immediately before the one in which Staff proposes the proviso refers

with approval to the testimony of Ameritech Illinois witness Way to the effect that Ameritech Illinois would entertain "the idea of allowing Verizon to go to the POI at the tandem and then connect to the end office *without going through the tandem switch.*" (Staff Br. at 9.) Since that sentence is unambiguously talking about making a connection in the tandem building but not at the tandem switch itself, Ameritech Illinois is confident that is what Staff had in mind with its proviso. With that understanding – that Verizon Wireless will not be required to establish direct trunking from its switch to Ameritech Illinois' end office in instances where facilities exist that will permit Verizon Wireless to go to a point of interconnection at Ameritech Illinois tandem building and then connect to the Ameritech Illinois end office without going to the tandem switch, Ameritech Illinois accepts Staff's proviso and urges the Commission to resolve Issue 1.A in the manner proposed either by Staff or by Ameritech Illinois.[1]

By way of response to key assertions in Verizon Wireless' initial brief on Issue 1.A:

- Verizon Wireless' contention that Ameritech Illinois is proposing direct end office trunking "when the volume of traffic that Verizon Wireless is sending *from its entire network* to that [particular] end office reaches one DS-1" (VW Br. at 7), is wrong, as Verizon Wireless witness Clampitt acknowledged at hearing. (*See* AIT Br. at 5.)

- Verizon Wireless' reliance on the FCC's pronouncement that "[t]he fact that an incumbent LEC must modify its facilities or equipment to respond to such [interconnection] request does not determine whether satisfying such request is technically feasible" (VW Br. at

[1] Ameritech Illinois would not object to a brief supplemental submission by Staff indicating whether Ameritech Illinois is correct in its understanding of Staff's intention. If such a submission were to indicate that Ameritech Illinois' understanding is correct, that would simplify the task of arriving at a final resolution of Issue 1.A. If such a submission were to indicate that Ameritech Illinois' understanding is incorrect, then Ameritech Illinois would perforce fall back on its previous position that its proposed section 5.4.4 should be adopted as is.

12) is badly misplaced. The clear meaning of the FCC's statement is that when a CLEC requests interconnection at a designated point, the ILEC cannot deny the request on the ground that it would have to modify its facility or equipment at that point *in order to accomplish the interconnection*. The FCC was not saying that it is always improper to consider whether an unlimited flow of traffic through a point of interconnection might necessitate the installation of an additional tandem switch somewhere else. That matter is dealt with elsewhere by the FCC, namely, in paragraph 203 of the *First Report and Order*, where, as Staff points out (Staff Br. at 6), the FCC qualified the CLEC's interconnection rights by allowing network reliability considerations to be taken into account.

- Ameritech Illinois has met its burden to show by "clear and convincing evidence" (*First Report and Order* para. 203) that the reliability of the network is threatened by the unstemmed flow of traffic through its tandem switches. As Verizon Wireless points out, "clear and convincing evidence" means evidence sufficient to show that the proposition being advanced is highly probable, rather than just more likely than not. (VW Br. at 14.) Staff's testimony and initial brief strongly suggest that Staff believes, and the Commission should find, that the evidence shows it is highly probable that the public switched network would suffer adverse network reliability effects if competing carriers were permitted to send unlimited volumes of traffic through Ameritech Illinois' tandem switches.

For the foregoing reasons, the Commission should approve Ameritech Illinois' proposed section 5.4.4, with the proviso proposed by Staff if that is the Commission's preference, but in that event with the understanding of the proviso set forth above.

Issue 1.C: Points of Interconnection

I. NOTWITHSTANDING THE IMPRESSION CREATED BY VERIZON WIRELESS' BRIEF, VERIZON WIRELESS HAS AGREED TO AMERITECH ILLINOIS' PROPOSED LANGUAGE FOR SECTION 2.1.6.

At an earlier stage of the arbitration, Ameritech Illinois was proposing two sentences for section 2.1.6 of the Agreement to which Verizon Wireless objected. Verizon Wireless withdrew its objection, and confirmed at hearing that there was no longer any dispute about section 2.1.6 (Tr. 23-25):

> MS. STEPHENSON (counsel for Staff): It was represented by the parties back in a letter of February 15th that issue 2.16 (sic; should be 2.1.6) of the interconnection agreement had been agreed to. [But] Ameritech indicated in its issue matrix that that issue was still outstanding.
>
> MR. FRIEDMAN (counsel for Ameritech Illinois): Mr. Rashes can correct me if I'm wrong, of course, but I believe that the parties have a shared understanding . . . that I.C is still in issue, in particular, certain language in contract section 2.1.6. . . . Is your understanding different?
>
> MR. RASHES (counsel for Verizon Wireless): Your Honor, 2.16 (sic) was at issue in I.B and I.C. In the letter of February – I can't remember the exact date, I believe it was around the 10th, to Mr. Friedman, *we accepted the language for 2.16 (sic) in full*, and which pulled it out of I.C as well. (Emphasis added.)
>
> JUDGE ZABAN: Okay. So that we can strike the reference to 2 point – 2.1.6C and the reference to 2.1.6; is that correct Mr. Rashes?
>
> MR. RASHES: Yes. And that was reflected in the issue matrix we e-mailed you yesterday evening.
>
> MR. FRIEDMAN: May I have just a moment so that we don't - -
>
> JUDGE ZABAN: You can take two. . . . Mr. Friedman, have you had a chance to review that language?
>
> MR. FRIEDMAN: Yes, and I now understand that indeed there is no disputed language in 2.1.6.

In its initial brief, however, Verizon Wireless writes as if it is still opposing Ameritech Illinois' language for 2.1.6. VW Br. at. 21 (objecting to language "in Subsection 2.1.6 of

Ameritech's proposed Interconnection Agreement"); *id.* at 22 (explaining "Verizon Wireless' reason for not agreeing to Ameritech's proposed language for subsection 2.1.6.c").

Ameritech Illinois assumes the discussion of 2.1.6 in Verizon Wireless' brief was an innocent oversight. In any event, the record is clear that Verizon Wireless has agreed to all of Ameritech Illinois' language for 2.1.6, and it would be appropriate, in light of the potential confusion created by Verizon Wireless' brief, for the Arbitration Award to so state.

II. SECTION 2.1.7 OF THE AGREEMENT SHOULD USE THE FCC'S LANGUAGE, NOT VERIZON WIRELESS'.

Ameritech Illinois has dropped its objection to the gist of Verizon Wireless' proposal for sections 2.1.7.5 through 2.1.7.6, but reiterates that the Commission should approve not Verizon Wireless' language for those sections, but the exact language of the FCC Rule on which Verizon Wireless bases its entitlement to 2.1.7.5 through 2.1.7.6. (*See* AIT Br. at 8-9.)

Issue 4: Reciprocal Compensation Rate To Be Charged By Verizon Wireless

I. VERIZON WIRELESS MUST SATISFY THE FUNCTIONAL SIMILARITY TEST, IN ADDITION TO THE GEOGRAPHIC COVERAGE TEST, TO QUALIFY TO CHARGE THE TANDEM RATE.

As Ameritech Illinois demonstrated in its initial brief (at 12-13), both this Commission and the federal courts have consistently held that under paragraph 1090 of the FCC's *First Report and Order*, an interconnecting carrier is entitled to charge reciprocal compensation at the incumbent carrier's tandem reciprocal compensation rate only if it proves *both* that its switch serves a geographic area comparable to the area served by the incumbent's tandem *and* that its switch performs functions similar to those performed by the incumbent's tandem. Verizon Wireless' attempt to undo this established legal principle is unavailing:

- Verizon Wireless' citation to the Focal/Ameritech Illinois arbitration (VW Br. at 25-26) leads nowhere. In that case, "Staff agree[d] with Ameritech that Focal must meet both a geographic and system functionality test before being granted the opportunity to receive reciprocal compensation at the tandem rate for the transport and termination of local traffic." Arbitration Decision, Docket 00-0027 (May 8, 2000), at 6-7. The Commission found that it "need not reach that issue here, because Focal has satisfied both tests." *Id.* at 7. Thus, the Focal case (1) left intact the Commission's earlier holdings that the requesting carrier must meet both the geographic coverage test and the functional similarity test (*see* AIT Br. at 12-13), and (2) had Staff unequivocally endorsing reaffirmation of those holdings.

- Verizon Wireless' attack on Ameritech Illinois witness Way's level of familiarity with the governing law (VW Br. at 26) is both unbecoming and futile. Ameritech Illinois' position on this legal issue does not rely on Mr. Way's "lay-person examination of . . . the *First Report and Order,*" or on his understanding of the Code of Federal Regulations (*see id.*). Ameritech Illinois' legal position relies on the unbroken line of federal court and state commission decisions that have held that the law is as Ameritech Illinois contends it is.

- Verizon Wireless' contention that Ameritech Illinois did not advocate the functional similarity test in the Level 3/Ameritech Illinois arbitration (VW Br. at 26-27) can only be described as an attempt to mislead the Commission. As the Commission correctly stated in its August 30, 2000, Arbitration Decision in that case (Docket 00-0332), at page 4, "Ameritech's Position" was that "Level 3 should not receive the rate for either the tandem or transport elements of termination unless and until the following conditions are satisfied: (i) it proves that its switch serves a geographic area comparable to that served by AI's tandem switch and (ii) it

proves that its switch performs the same functions on behalf of AI as AI's tandem performs." The Ameritech Illinois-proposed language that Verizon Wireless quotes at pages 26-27 of its brief was 100% consistent with that position; it included the functional similarity test in the analysis by its requirement that 47 C.F.R. § 51.771(a)(3) be "applied consistently with paragraph 1090 of the FCC's First Report and Order" – the paragraph that makes clear that functional similarity is part of the test.[2]

II. VERIZON WIRELESS' MTSOS DO NOT SATISFY THE FUNCTIONAL SIMILARITY TEST.

Verizon Wireless writes at length about how its network processes land-to-mobile calls. (VW Br. at 28-29.) Ameritech Illinois does not dispute that Verizon Wireless' network is a wondrous thing, or even that it is, as Verizon Wireless repeatedly characterizes it, very complex. That, though, is not the question. The question is whether Verizon Wireless' MTSOs perform functions similar to Ameritech Illinois' tandems – similar enough (not wonderful enough or complex enough) to require Ameritech Illinois to pay Verizon Wireless reciprocal compensation at the same rate as Verizon Wireless pays Ameritech Illinois when Ameritech Illinois terminates a Verizon Wireless-originated call through one of its tandems. The answer to that question is no.

Rather than rehashing in this reply the detailed explanation of why Verizon Wireless does not pass the functional similarity test (*see* AIT Br. at 14-18), Ameritech Illinois will focus on the heart of the matter: the core function of tandem switching.

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[2] Verizon Wireless' false contention that Ameritech Illinois is taking a tougher line here than it took in the Level 3 arbitration is consistent with Verizon Wireless' attempt throughout this proceeding to create the impression that Ameritech Illinois is trying to impose more onerous conditions on Verizon Wireless than it seeks from other carriers. Ameritech Illinois is not trying to do any such thing.

The quintessential function of a tandem switch is the switching of traffic from trunk to trunk, *i.e.*, connecting one switch to another. Staff witness Murray agreed that a "tandem switch has as its basic function to receive traffic coming in on trunk groups from other switches and to route traffic on to switches." (Tr. 314.) More important, the FCC – which after all is the agency whose reciprocal compensation rule the Commission is implementing here – says the same thing:

> The tandem switching functionality network element is defined as (i) trunk-connect facilities . . . [and]; (ii) *the basic switching function of connecting trunks to trunks* . . . .

(47 C.F.R. § 51.319(c)(2) (emphasis added).)

Whatever else they may do, Verizon Wireless' MTSOs' essential function is not to connect trunks to trunks or, typically, switches to switches. We say "typically" because there are circumstances in which, according to Verizon Wireless witness Clampitt, Verizon Wireless' base station controllers perform a switching function, namely, when the Verizon Wireless customer to whom the call is being terminated is actually mobile, in which event the base station controller may be called upon to transfer the call from one cell site to another – or to another base station controller. (Tr. 76-77.) For such calls, Verizon Wireless may be entitled to tandem compensation under the FCC's rules, because, for such calls, Verizon Wireless' MTSO is arguably performing the essential tandem function of connecting two switches. Plainly, though, Verizon Wireless is not entitled to the tandem reciprocal compensation rate for calls that it terminates to customers that are not on the move during the course of the call. And since Verizon Wireless is claiming the benefit of the tandem rate, it should be Verizon Wireless' burden to show what percentage of its traffic is terminated to customers that are actually mobile during the course of the call. Absent such a showing, Verizon Wireless would be over-

compensated, in violation of section 252(d)(2) of the 1996 Act, if the Commission were to award it the tandem rate for all local calls that it terminates.[3]

Staff suggests that Verizon Wireless' network and Ameritech Illinois' network are so different that a comparison of the functionality of Verizon Wireless' MTSOs with the functionality of Ameritech Illinois' tandems (*i.e.*, a "component by component" comparison) may be impossible. (Staff Br. at 19.) That, coupled with the abundant but conflicting evidence on both sides, may leave the Commission uncertain how to resolve Issue 4. If so, Ameritech Illinois urges the Commission to take into account the bottom line rule of law that Ameritech Illinois emphasized in its initial brief: If anything is clear, it is that section 252(d)(2) of the 1996 Act entitles Verizon Wireless only to be compensated for its costs of terminating traffic that originates on Ameritech Illinois' network, and that for Verizon Wireless to be over-compensated for its actual (forward looking) costs would be unlawful. The FCC's symmetricality rule (47 C.F.R. § 51.711(a)) and the geographic coverage and functional similarity tests of paragraph 1090 of the FCC's *First Report and Order* are there only to implement section 252(d)(2).

Here, the largest wireless carrier in the country has opted not to show its actual costs, even though it knows that if those costs were higher than Ameritech Illinois' it could charge a higher reciprocal compensation rate than Ameritech Illinois – higher even than Ameritech Illinois' tandem rate. From this the Commission can fairly infer that Verizon Wireless knows (or believes) that its transport and termination costs are lower than Ameritech Illinois'. (*See* AIT Br.

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[3] The Commission should not presume that most traffic that Verizon Wireless terminates is to customers on the move merely because mobility is a key feature of the service Verizon Wireless provides. While there is no record on the matter one way or the other, common experience suggests that however much wireless customers may tend to be on the move when they originate calls, they tend to be on the move significantly less when calls are placed to them. Ameritech Illinois is not suggesting that the Commission accept this proposition as fact, but is merely pointing out that it would be a mistake for the Commission to award Verizon Wireless the tandem rate on all calls based on an assumption that most calls that Verizon Wireless terminates are to customers in transit.

at 11.) Accordingly, if the evidence leaves the Commission uncertain how to resolve Issue 4, it should resolve the issue against Verizon Wireless.

Issue 6: Netting

Verizon Wireless and Ameritech Illinois *agreed* to the dispute resolution procedures in the Agreement. They *agreed* to each of the steps in the process that yields the 140-day period between a party's announcement that it is disputing a bill and either party's right under the Agreement to take the matter to this Commission or a court. This key fact makes much of Verizon Wireless' argument about Issue 6 irrelevant – particularly Verizon Wireless' contention that netting should be allowed so as "to cause the parties' to more quickly focus attention on disputes and on their prompt resolution." (VW Br. at 33.) If Verizon Wireless did not like the pace at which the agreed dispute resolution provisions focus the parties' attention on disputes, it should not have agreed to them.

Apart from that, Verizon Wireless offers no explanation of *how* netting would lead to prompter dispute resolution in any event. The Commission should not take on faith Verizon Wireless' unsupported contention that it would – especially after Verizon Wireless' witness admitted that netting could, in practice, lead to much more serious disputes. (Tr. at 84.)

Perhaps hoping to distract attention from the fact that it voluntarily agreed to the timetable for dispute resolution in the Agreement, Verizon Wireless insinuates, based on a snippet from the testimony of Ameritech Illinois witness Zaccardelli, that "there is no limit to how long a dispute can go on" under the Agreement (VW Br. at 33) – as if the agreed dispute resolution process could be manipulated in such a way as to prevent the party whose bill is being disputed from ever getting satisfaction. Verizon Wireless' insinuation is, as we have shown,

false. The Agreement is clear on its face that the billing party can, if it so chooses, avail itself of "other relief under Applicable Laws" by no later than 140 days after the dispute was raised. (*See* AIT Br. at 20-21.)

Furthermore, Verizon Wireless' attempt to make hay out of Ms. Zaccardelli's testimony exceeds the bounds of fair advocacy. True, Ms. Zaccardelli initially forgot that section 21.5 of the Agreement provides for a prompt end to the party-to-party dispute resolution process if either party wants to avail itself of other remedies. But Ms. Zaccardelli later testified accurately that section 21.5 does so provide. (Tr. at 281.) And, more to the point, Verizon Wireless knows as well as Ameritech Illinois does what the provisions that the parties have agreed on say. This is an arbitration, not a quiz, and it is inappropriate for Verizon Wireless to try to leverage a witness' momentary lapse into a contention – which Verizon Wireless knows is inaccurate – that disputes can go on indefinitely under the Agreement.

Finally, as to Ms. Zaccardelli's testimony that disputes with some carriers "have been going on for years" (Tr. 235, *quoted in* VW Br. at 33), all that shows is that carriers sometimes choose, for whatever reason, to continue party-to-party dispute resolution rather than to pursue more dramatic alternatives. Under agreed language in *this* Agreement, at least, Verizon Wireless will have the option to go to court, or to file a complaint in this Commission, within 140 days (at most) of Ameritech Illinois' notice that it is disputing a Verizon Wireless bill. And, again, if Verizon Wireless believes 140 days is too long, it shouldn't have agreed to it. Having agreed to it, Verizon Wireless should not be heard to say that netting must be allowed in order to speed up the process.

Finally, Ameritech Illinois' proposed prohibition of netting accurately reflects Illinois law. (*See* AIT Br. at 22-24.) Whatever the law may or may not be in Michigan, what matters here is the law of Illinois.

Issue 7: Mileage for Calculating Tandem Termination Rate Charged By Ameritech Illinois

As Ameritech Illinois demonstrated in its initial brief, there is no basis for a determination that the cost Ameritech Illinois would incur to bill wireless carriers on a measured-mileage basis for the Tandem Transport Facility piece of the tandem reciprocal compensation rate would outweigh the unknown, but certainly modest, benefit that Verizon Wireless might derive from such a change. Accordingly, the Commission should permit Ameritech Illinois to continue to use the 23-mile figure for wireless carriers that Ameritech Illinois developed in 1996.

In response to Verizon Wireless' initial brief on Issue 7:

- The assertion that the current method "causes significant over-billing to Verizon Wireless" (VW Br. at 35) is purely speculative and very likely wrong. There is no basis for Verizon Wireless' assumption that the 44% reduction in mileage charges that Verizon Wireless claims it experienced in Michigan would be repeated in Illinois. And since even a 44% reduction in mileage charges equates to only a 2.5% reduction in tandem reciprocal compensation charges (AIT Br. at 29 n.7), there is certainly no basis for a conclusion that Verizon Wireless is being significantly over-billed in Illinois. For all this record shows, in fact, it is possible Verizon Wireless is being under-billed.

- Verizon Wireless' discrimination point (VW Br. at 35-36) adds nothing to its argument, because Verizon Wireless is not situated similarly to CLECs with respect to the point at issue, and there is a legitimate reason for the differing (not unfair) treatment of CMRS

providers. If the Commission decides, in this or any other docket, to require Ameritech Illinois to institute a system for measuring actual transport miles for wireless carriers, it should be because it concludes the benefit outweighs the cost – not because there can never be any difference, *even a rational one*, between interconnection for CMRS providers and landline carriers.

- Verizon Wireless' contention that Ameritech Illinois must be able to measure actual miles for wireless carriers because it measures actual miles for CLECs and IXCs (VW Br. at 36-37) misses the point. The undisputed facts are that (1) the systems that Ameritech Illinois now uses for tracking and billing wireless traffic (unlike the systems Ameritech Illinois uses for other traffic) do not measure actual miles (Zaccardelli Direct at 14-15; Tr. 263); (2) there is a perfectly legitimate reason for that difference (*id.*); (3) it would be possible for Ameritech Illinois to put in place a new system that would measure actual miles for wireless carriers; but (4) to do so would cost money (Tr. 266); and (5) Verizon Wireless has not undertaken to show, and there is no basis for the Commission to conclude, that that cost would be outweighed by the benefit that would follow.

Issue 8: Alleged Refusal to Share Costs of Mutually Beneficial Facilities

See Ameritech Illinois' initial brief at pages 30-31.

Issue 10: Transiting Rate

As Ameritech Illinois demonstrated in its initial brief (at pages 31-35), the transiting rate that Verizon Wireless is asking the Commission to review in this arbitration is a tariffed rate that the Commission is already reviewing in docket 98-0386. The record in that docket includes the cost study on which Ameritech Illinois' transiting rate is based, and extensive testimony by

Ameritech Illinois, CLEC and Staff cost witnesses about that cost study and the transiting rate it yielded. The record in this arbitration, in contrast, includes no basis for an evaluation of Ameritech Illinois' transiting rate – and appropriately so, because it would be the height of administrative inefficiency for the Commission to duplicate in this arbitration the exercise it is already undertaking in 98-0386. Accordingly, the correct resolution of Issue 10 is for Verizon Wireless to continue to pay Ameritech Illinois' current tariffed transiting rate, like every other carrier in Illinois, until a rate is established in 98-0386, and then, like every other carrier in Illinois, to start paying that rate.

Verizon Wireless' first response to this approach is to say that "Ameritech provided no evidence here . . . that the compliance tariff filed and cost study allegedly filed on April 3 were in fact at TELRIC rates." (VW Br. at 42.) That is exactly the point. The evidence is in 98-0386, as it should be, which is precisely why the question whether the transiting rate in the compliance tariff is a "correct" TELRIC rate must be decided there.[4]

Verizon Wireless then points out that Staff witness Zolnierek was not familiar with docket 98-0386 (VW Br. at 42), but all that does is underscore that this is the wrong forum for addressing Ameritech Illinois' transiting rate. Others on the Commission Staff are familiar with 98-0386; testimony on the transiting rate issue was filed in that docket by Staff witnesses Patrick Phipps and Christopher Graves. (*See* Ameritech Illinois' Cross-Exhibits 5A and 5B.)

Finally, Verizon Wireless argues that it is entitled to a decision on the transiting rate no matter what is happening in docket 98-0386, and that the Commission does not have the option

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[4] Verizon Wireless' characterization of Ameritech Illinois' transiting cost study as an "alleged" cost study is odd indeed. It is uncontested that Ameritech Illinois did in fact file such a study on April 3, 1998 (Zaccardelli Direct at 20), and Ameritech Illinois has identified the cost study by its exhibit number in 98-0386, where it is Schedule RAC-5 to the testimony of Ameritech Illinois witness Ruth Ann Cartee.

under the 1996 Act to defer the decision to that docket. Common sense and the Commission's own precedents show that Verizon Wireless is wrong.

First, common sense: The TELRIC Compliance Docket, 98-0386, was initiated on June 3, 1998. Since that date, Ameritech Illinois has arbitrated interconnection agreements with (at a minimum) Focal Communications Corp. of Illinois (00-0027), Level 3 Communications (00-0332), Covad Communications Co. (00-0312), Rhythms Links Inc. (00-0313), and SCC Communications Corp. (00-0769). In theory, each and every one of those carriers could have challenged not just one, but many of Ameritech Illinois' rates – the rates were, by definition, susceptible to challenge, because they were being reviewed in 98-0386. And, according to Verizon Wireless' theory, each of those carriers would have been entitled to have its rate issues decided in its own individual arbitration – notwithstanding that the same issues were being addressed in 98-0386.[5] But the Commission would have a nightmare on its hands if it proceeded as Verizon Wireless suggests. Plainly, the Commission has to be able to decide rate issues in dockets designed for the purpose – dockets in which all carriers can participate and from which one set of rates emerges, applicable to all carriers that have interconnection agreements with Ameritech Illinois. And, just as plainly, that means that if a carrier raises in an arbitration a rate issue that the Commission is already addressing in a cost docket, as Verizon Wireless has, that carrier must await the outcome of that proceeding.

As for Commission precedent, what Ameritech Illinois has just described as sensible is exactly what the Commission has done in the past. On August 1, 1996, AT&T Communications

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[5] The multiple arbitrations could not have been consolidated, incidentally, because they were all filed at different times, with the exception of 00-0312 and 00-0313, and thus, especially under Verizon Wireless' theory, had to be resolved on their own timetables under the 1996 Act.

of Illinois, Inc., filed a petition to arbitrate an interconnection agreement with Ameritech Illinois. Arbitration Decision, *AT&T Communications of Illinois, Inc., Petition for arbitration of interconnection Rates, Terms and Conditions and related arrangements with Illinois Bell Tel. Co. d/b/a Ameritech Illinois,* Dockets 96 AB-003 & 96 B-004 (Cons.) (Nov. 26, 1996) ("AT&T Award"), at 2. Under the timeline in the 1996 Act, the date by which Verizon Wireless would say the Commission had to resolve all the open issues was November 27, 1996 (nine months after AT&T's February 27, 1996 request for negotiation (*id.*).) AT&T sought to arbitrate "an entire interconnection agreement" (*id.*), including rates.

On August 26, 1996 – shortly after Ameritech Illinois filed TELRIC cost studies required by the 1996 Act and three months before the November 27, 1996, due date for the Commission award, AT&T filed a Motion to Sever TELRIC Cost Studies for Consideration in a Separate Proceeding. (*Id.* at 3.) Staff supported the motion, noting that "Staff believes the initiation of a separate proceeding would be appropriate. Staff believes that reviewing the TELRIC studies . . . should be undertaken in an open proceeding addressing TELRIC costs for all network elements, allowing all parties the opportunity to comment and present evidence. (Staff's Response to AT&T's Motion to Sever TELRIC Cost Studies for Consideration in a Separate Proceeding (attached hereto), at 2.)

AT&T's motion to sever was granted, and Ameritech Illinois' TELRIC cost studies were considered in a separate proceeding, Docket No. 96-0486. AT&T Award at 3. For purposes of the AT&T/Ameritech Illinois interconnection agreement, the Commission set interim rates in the arbitration, to be applied in the period between the effective date of the agreement and the establishment of permanent pricing in 96-0486. (*Id.*)

The Commission issued its Arbitration Award in the Ameritech Illinois/AT&T arbitration on November 26, 1996. More than a year later, on February 17, 1998, the Commission issued its Second Interim Order in the TELRIC docket, 96-0486 (which had meanwhile been consolidated with 96-0569), taking further action on Ameritech Illinois' TELRIC studies.

The TELRIC saga continued, but for present purposes, the point is clear: AT&T filed an arbitration petition in August, 1996, that set forth as open issues the rates Ameritech Illinois would charge AT&T for interconnection and unbundled network elements. According to Verizon Wireless' theory, the Commission had no choice but to resolve those issues by November 27, 1996. The Commission, however, with the full support of Staff, opted instead to defer the rate issues to another docket – a docket that continued long past what Verizon Wireless would claim was the absolute deadline for deciding the rate issues AT&T had raised.

In short, not only is the resolution for Issue 10 that Ameritech Illinois has proposed eminently reasonable, but also Verizon Wireless' contention that the Commission cannot adopt that resolution because of the arbitration timetable in the 1996 Act is contrary both to common sense and to the Commission's own precedent.

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Finally, with respect to Issue 10, there is no need to belabor the question whether transiting is or is not required by the 1996 Act. This Commission has seen and rejected Verizon Wireless' arguments on that question, and has repeatedly held that transiting is not required by the 1996 Act (*see* AIT Br. at 38) for the reasons that Ameritech Illinois has already set forth (*id.* at 37-38). The Commission should once again reaffirm that holding in its Arbitration Award.

Issue 11: Performance Standards

Ameritech Illinois' initial brief (at 39-45) provided more than adequate grounds for rejecting Verizon Wireless' proposed language for Agreement sections 5.4.3 and 5.3.2.2. By way of reply to Verizon Wireless' discussion, Ameritech Illinois adds only the following:

- Verizon Wireless' repeated characterization of its proposals as "performance standards" (*e.g.*, VW Br. at 43) is, for the most part, inaccurate. The bulk of what Verizon Wireless is proposing is not performance standards at all, but penalties for failing to satisfy performance standards.

- By resting its position in large part on criticism of Ameritech Illinois' service quality in general (*id.* at 43-44) – as opposed to the quality of Ameritech Illinois' performance as a provider of interconnection services – Verizon Wireless underscores the obvious: This two-carrier arbitration is hardly the forum for the Commission to tackle the subject Verizon Wireless is raising.

- Notwithstanding Verizon Wireless' assertion that the blocking criteria in the Illinois Administrative Code are "minimum standards" (an assertion for which Verizon Wireless offers no support), the fact of the matter is that it is section 730.520, and not Verizon Wireless or any other entity, that defines what is and what is not "an unacceptable level of blocking at the tandem." (*Id.* at 44.)

Issue AIT-1 Trunk Side Interconnection

See Ameritech Illinois' initial brief at page 45.

Issue AIT- 2 Billing of Transit Traffic

As Ameritech Illinois has explained, Issue AIT-2 comprises two sub-issues. The principal sub-issue, which Ameritech Illinois addressed at pages 46-49 of its initial brief, is whether, until such time as Verizon Wireless records and identifies the actual amount of transit traffic it receives from Ameritech Illinois, Verizon Wireless will be required to use the formula in Ameritech Illinois' proposed section 8.2 to determine a proxy for the actual amount. Verizon Wireless did not address this question in its initial brief, and can appropriately be deemed to have waived its objection to Ameritech Illinois proposed language.[6]

The other sub-issue comprised by Issue AIT-2 is whether each party's reciprocal compensation bills to the other should set forth the volume of transit traffic the billing party received from the billed party, as provided in the first sentence of Ameritech Illinois' proposed section 8.2, so as to help ensure that the parties are not billing each other for transit traffic and thereby to reduce the likelihood of disputes. Ameritech Illinois explained at pages 49-50 of its initial brief why the parties should do so, and Verizon Wireless' initial brief offers no cogent reason for a different conclusion.

Verizon Wireless persists in complaining about the burden of providing a "set of records" for the transit traffic it receives from Ameritech Illinois (VW Br. 45, 46), but as Ameritech Illinois made clear both at hearing and in its brief (*see* AIT Br. at 50), proposed section 8.2 does not call for a set of records – just a setting forth on the reciprocal compensation bill of "the Conversation MOUs representing transit traffic."

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[6] If Verizon Wireless addresses the matter in its reply brief, Ameritech Illinois may seek the Hearing Examiners' permission to respond.

Verizon Wireless then complains that since it will not be billing Ameritech Illinois for transit traffic, there is no reason for it to quantify for Ameritech Illinois this traffic for which it is not billing. (VW Br. at 46.) But there is: Since transit traffic "looks like" transit traffic to the terminating carrier and has to be separated out from non-transited local traffic for purposes of reciprocal compensation, it makes good sense – and certainly is not burdensome – for the billing (terminating) carrier to let the billed carrier know how much of the terminated traffic it has excluded from its reciprocal compensation bill, much as the service department at an automobile dealership will show on its invoice the work for which it did not charge because it was under warranty.

And, finally, Verizon Wireless' assertion that "Ameritech will not itself provide this information on request" (VW Br. at 47) is wrong: Ameritech Illinois' proposed sentence calls for *both* carriers to show transiting minutes on their reciprocal compensation bills.

Issue AIT-4 Indirect Termination

Interconnection agreements are the means Congress chose for introducing competition to the local telephone exchange market. Two by two, competing and incumbent LECs enter into interconnection agreements, and thereby pave the way for competition. The promotion of competition for local exchange service is the signal purpose of sections 251 and 252 of the 1996 Act.

Verizon Wireless' proposed language for Agreement section 8.6 can be read to imply that Verizon Wireless is entitled to interconnect with Ameritech Illinois for the purpose of transiting other carriers' traffic to Ameritech Illinois. Such an entitlement – which appears nowhere in the 1996 Act or in any FCC Rule implementing the 1996 Act – would be inconsistent with the core

purpose of the Act. Nothing in a scheme under which Verizon Wireless would transit traffic to Ameritech Illinois would promote competition between anyone.

Verizon Wireless' attempt to parse an entitlement to provide transiting service out of the 1996 Act and the FCC's implementing rules is unavailing. Relying first on section 251(a)(1) of the Act, Verizon Wireless notes, correctly, that "telecommunications carriers may interconnect 'directly or indirectly' with other carriers." (VW Br. at 47). But nothing in section 251(a)(1) sheds any light on the question whether Verizon Wireless may transit traffic to Ameritech Illinois. All section 251(a)(1) provides is that every carrier must (if asked) establish a link, direct or indirect, with the network of any other carrier that may wish to (need to) exchange traffic with it. When there is an indirect link, it is, in practice, the incumbent. That does not, of course, mean that Ameritech Illinois has to be the indirect link in all instances, but it also does not mean – as Verizon Wireless argues – the opposite. Section 251(a)(1) is simply irrelevant to Issue AIT-4.

Verizon Wireless next cites section 251(c)(2) of the Act (VW Br. at 47-48), though for no purpose that can be gleaned from Verizon Wireless' brief. In any event, section 251(c)(2) does nothing to advance Verizon Wireless' argument. It requires interconnection for the transmission and routing of "telephone exchange service and exchange access," but there is no suggestion in the statute that that means *other carriers'* telephone exchange service and exchange access, rather than the interconnecting carrier's. Quite the contrary, the clear intent of section 251(c)(2) is to permit competing carriers to interconnect with incumbents so they can exchange *their own* traffic with the incumbents. (AIT Br. at 50-51.)

Finally, Verizon Wireless resorts to FCC Rule 51.305 (VW. Br. at 48). As Ameritech Illinois demonstrated in its opening brief, however, that Rule supports Ameritech Illinois' position on Issue AIT-4, not Verizon Wireless'. Rule 51.305(b) makes clear as can be that interconnection is for the limited purpose of "providing to others telephone exchange service, exchange access or both," and a carrier is not doing that when it transits traffic from one carrier to another. (*See* AIT Br. at 51-52.)

For the reasons set forth above and in Ameritech Illinois' initial brief, the Commission should reject Verizon Wireless' proposed language for Agreement section 8.6.

Issue AIT-5: Toll Pool

As Ameritech Illinois demonstrated in its initial brief (at 52-53), Verizon Wireless' proposed language for section 8.7 should be rejected, because there are no primary toll carrier arrangements in Illinois, so the documentation that Verizon Wireless' language would require Ameritech Illinois to give Verizon Wireless does not exist. Verizon Wireless asserts that "Ameritech provided no evidence that these arrangements do not exist in the state of Illinois. (VW Br. at 49.) That assertion is, to say the least, bizarre: Not only did Ameritech Illinois witness Zaccardelli unequivocally testify that there are no primary toll carrier arrangements in Illinois (Zaccardelli Direct at 28), but Verizon Wireless did not challenge Ms. Zaccardelli on this point, and Verizon Wireless witness Clampitt accepted Ms. Zaccardelli's testimony as true (Tr. 95). There are, indeed, no primary toll carrier arrangements in Illinois. Ergo, there are no documents of the sort that Verizon Wireless' is requesting, and Verizon Wireless' request – however understandable it may have been before Verizon Wireless learned there were no such documents – is by this point hard to fathom.

Verizon Wireless doggedly argues that even if there are no documents, Ameritech Illinois should be required to provide them anyway, for two reasons. First, Verizon Wireless contends, "there would be no harm to Ameritech." (Verizon Br. at 49.) The fact that language would do no harm is hardly a basis for including it in a contract, however, when it is certain that it would also do no good. Second, Verizon Wireless contends its language should be approved so that other carriers can enjoy the purported benefits by opting into this agreement "in other states" under section 252(i) of the 1996 Act. (*Id.*) Verizon Wireless does not understand how section 252(i) works. Under section 252(i) this Ameritech Illinois agreement will be available to other carriers *only in Illinois*.

And again, as Ameritech Illinois noted in its initial brief (at 53), Verizon Wireless' proposed language would be inappropriate even in a state where there are primary toll carrier arrangements. (*See* Zaccardelli Direct at 28-29.)

Issue AIT-7: Tariff Notice

Verizon Wireless refers to the fact that Ameritech Illinois' tariff filings for non-competitive services do not go into effect until 45 days after they are filed, and states, "This 45 day notice would suffice under the provisions of Verizon Wireless' proposed section 28.1." (VW Br. at 50.) If the 45-day period that applies to non-competitive services satisfies Verizon Wireless' objectives, that does indeed appear to resolve Issue AIT-7 with respect to tariff filings concerning non-competitive services – but only because it confirms that Verizon Wireless' proposed language should be rejected as unnecessary.

Beyond that Verizon Wireless' initial brief says nothing about Issue AIT-7 that Ameritech Illinois did not address in its initial brief.

Issue AIT-8: NPA-NXX Numbering

The issue is not, as Verizon Wireless puts it, whether the Commission should "require Verizon Wireless to absorb the costs of both parties for the [NPA-NXX] designation." (VW Br. at 51.) That would be the issue if Ameritech Illinois were proposing contract language that said, "Verizon Wireless shall bear both parties' costs for the NPA-NXX designation." But Ameritech Illinois is not proposing any such thing. How can the Commission be sure this is so? As always, by looking at the contract language that is actually in dispute. That language is a sentence, proposed by Verizon Wireless, that states, "Telco [Ameritech Illinois] agrees not to charge Carrier [Verizon Wireless] for any Telco work required to facilitate the change and Carrier agrees not to charge Telco for any Carrier work to facilitate the change." Plainly, Ameritech Illinois is not asking the Commission to require Verizon Wireless to bear any costs that are properly Ameritech Illinois'. Quite the contrary, Verizon Wireless is asking the Commission to prohibit Ameritech Illinois from charging Verizon Wireless for compensable work (if any) that Ameritech Illinois may do to facilitate the redesignation of Verizon Wireless' NPA-NXXs. The Commission should reject that request, and leave the parties free to charge each other (or not) for whatever compensable work each does for the other (if any) to facilitate the change.

The only justification Verizon Wireless offers for its proposal is the fact that Ameritech Corporation used to own some of the wireless entities that now comprise Verizon Wireless. Ameritech Illinois showed in its initial brief why that fact does not support Verizon Wireless' request (*see* AIT Br. at 57-58), and Verizon Wireless says nothing in its initial brief that warrants any additional discussion.

The Commission should also reject Verizon Wireless' proposed written notification language for section 36.5 and adopt the one-year timeframe proposed by Ameritech Illinois, for the reasons set forth in Ameritech Illinois initial brief at 58-59. Ameritech Illinois position' on this part of Issue AIT-8 is further supported by the fact that Verizon Wireless said nothing in support of its proposed language in its initial brief.

CONCLUSION

For the reasons set forth above, and as further elaborated and supported in this proceeding, Ameritech Illinois respectfully urges the Commission to rule in its favor on the contested issues and to approve Ameritech Illinois' proposed interconnection agreement.

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Respectfully submitted,

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